92-1536

No. _____

Supreme Court, U.S.
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In The

Supreme Court of the United States

October Term, 1992

CIRCLE NATIVE COMMUNITY

Petitioner,

v.

STATE OF ALASKA, DEPARTMENT OF HEALTH AND SOCIAL SERVICES,

Respondent.

Petition For Writ Of Certiorari To the Supreme Court Of The State of Alaska

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Do Alaskan Native Tribal Courts retain concurrent jurisdiction over child custody matters?

LIST OF PARTIES

The parties to these proceedings are:

Petitioner: the Circle Native Community;

Respondent: the State of Alaska, Department of Health and Social Services;

Other parties: J.J., the mother of the minor children, and F.P., W.M. and A.M., the minor children.

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STATE OF ALASKA, DEPARTMENT OF HEALTH AND SOCIAL SERVICES,

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Petition For Writ Of Certiorari To the Supreme Court Of The State of Alaska

PETITION FOR WRIT OF CERTIORARI

The Circle Native Community respectfully petitions for a Writ of Certiorari to review the decision of the Supreme Court for the State of Alaska in this case.

OPINIONS BELOW

The Alaska Supreme Court opinion is currently pending publication (Appendix A, App. A-1) *In re F.P.*, Ak. Sup. Ct. Op. No. 3906 (Dec. 18, 1992). The June 28, 1991, Order of the Superior Court for the State of Alaska, Fourth Judicial District, is unpublished. (Appendix B, App. B-1). The February 27, 1990 order of the Superior

Court of the State of California for the County of Santa Clara is unpublished. (Appendix D, App. D-1)

JURISDICTION

Jurisdiction of this Court to review the Alaska Supreme Court's decision in this matter is conferred by 28 U.S.C. §1257(3). The opinion of the Alaska Supreme Court was filed on December 18, 1992.

STATUTES TO BE CONSTRUED

The text of the following statutes are set forth in Appendix C:

P.L. 83-280 - 28 U.S.C. §1360

Indian Child Welfare Act – 25 U.S.C. §§1911, 1918

STATEMENT OF THE CASE

This case arises out of a child protection proceeding involving three Alaska Native children who are members of the Circle Native Community,[1] an Indian tribe

[1] When this case was initiated, the name of the tribe was the Native Village of Circle. On October 4, 1991, the village reorganized under the terms of the Indian Reorganization Act and changed its name to the Circle Native Community. While the latter name was used in the State Court proceedings, the proper current name for the tribe is used here.

recognized under the terms of the Indian Child Welfare Act (ICWA) (25 U.S.C. 1901 *et seq.*)[2]

This case originally began in the California courts in 1985, where the mother originally resided. In 1985, the mother was arrested in California on charges of misconduct involving a controlled substance, and the oldest child, F.P., who was about six months old, was taken into

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[2] The Circle Native Community is an "Indian tribe" as defined under the Indian Child Welfare Act, 25 U.S.C. 1903(8). Under this section, "Indian tribe" is defined as "any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in section 1602(c) of Title 43." 43 U.S.C. 1602(c) states that "Native village" means any tribe, band, clan, group, village, community, or association in Alaska listed in sections 1610 and 1615. 43 U.S.C. 1610(b)(1) contains a list of Native villages, one of which is the Native Village of Circle.

In *Noatak v. Hoffman*, 896 F.2d 1157 (9th Cir. 1990) *rev. on other grounds, Blatchford v. Native Village of Noatak*, 111 S.Ct. 2578 (1991); the Ninth Circuit found that the Alaska Native Claims Settlement Act (ANSCA) constituted Congressional recognition of Native villages as Indian tribes. In that case, the Ninth Circuit specifically found that the Native Village of Circle was an Indian tribe. This Court did not disturb that part of the Circuit Court's ruling.

The recent United States Department of the Interior's Solicitor's opinion supports the view that the Alaska Native villages listed in ANSCA are presumptively Indian tribes: " . . . we do believe that there is sufficient merit to the first argument for the BIA and other agencies to proceed in the administration of programs on the presumption that Native villages listed on the modified ANSCA list are tribes." *See* Office of the Solicitor Memorandum, *Governmental Jurisdiction of Alaska Native Villages Over Land and Non-members*, page 59, M-36975, January 11, 1993.

protective custody by the Santa Clara County authorities and placed in foster care with her maternal aunt. This initial incident preceded the birth of the two younger children.

In the following five years, the County's protective intervention continued as the family continued in crisis.[3] During this time the two younger children were born and subsequently taken into custody. Santa Clara County notified the tribe as provided by the Indian Child Welfare

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[3] In 1986, after the mother had violated a court order by leaving a residential treatment center to which she had been committed, the County of Santa Clara proceeded with permanency planning. Although an aunt petitioned for guardianship, she herself was arrested on drug charges and the petition was never approved. A subsequent investigation into the history of this family revealed an extensive record of domestic violence and substance abuse by numerous family members.

In June of 1988 the second child, W.M., was born, and was shortly thereafter placed in foster care.

The State of California's child protection case was monitored the entire time through the local and tribal ICWA program in Santa Clara County. When the County began to seek an adoptive placement for the children in 1989, the Native Village of Circle formally intervened in the State Court proceedings.

The third child, A.M., was born in November of 1989, and was then placed in foster care.

Although the mother had been jailed again in October 1989 on burglary charges, a psychological evaluation of the mother indicated that she had "made some tenuous first steps toward emotional recovery from a chronically self-destructive lifestyle, which began early in violence and crime."

Given this psychological evaluation, the County and the Tribe, acting in concert, formulated another case plan aimed at a gradual reunification of the children with the mother. But in February of 1990 the mother was again arrested on drug charges.

Act, and the tribe and county began to work together on the case. Unfortunately, efforts to rehabilitate and reunite the family in California were not successful.

In March 1990 the tribe moved to transfer the matter to tribal Court under 25 U.S.C. §1911(b). The Santa Clara County Court granted the motion and transferred jurisdiction of the case to the Circle Native Community. At the time the mother did not oppose the transfer of jurisdiction.

In the Tribal Court, a new case plan attempted a last effort at reunification. The family was relocated to Alaska, and the children were placed in foster care in Fairbanks. The mother was placed in a residential treatment facility in Fairbanks following her release from prison in California.

The mother successfully completed the residential treatment program in August of 1990 and entered an outpatient treatment program. The Tribe continued to provide extensive services to the family including setting up a financial plan using AFDC and tribal rent assistance; helped the family secure housing; and provided on-site monitoring of the family situation.

In March 1991 the Alaska State Troopers, responding to a call, found the mother of the children unconscious and bleeding from a cut on her foot. Temporary custody of the children was taken immediately by the State Division of Family and Youth Services and the children were placed in foster care.

On March 25, 1991 the Tribe moved to dismiss the State's Court proceedings and resume management of the

case under 25 U.S.C. 1911(a). The Motion to Dismiss was based on the Tribe's prior exclusive jurisdiction over the matter. The State Department of Health and Human Services opposed the village's motion and on June 28, 1991, the Alaska Superior Court denied the Tribe's Motion to Dismiss.

The Tribe appealed the denial of the Motion to Dismiss to the Alaska State Supreme Court in October 1991. On December 18, 1992 the Supreme Court issued an opinion affirming the Superior Court's decision to deny the Tribe's Motion to Dismiss, holding that Alaska Native tribes lacked the jurisdiction to decide child custody matters. This Petition for Certiorari follows.

REASONS FOR GRANTING THE WRIT

A. Summary

The decision of the Alaska Supreme Court is in direct conflict with the opinion of the Ninth Circuit Court of Appeals on a matter of federal Indian law. The Ninth Circuit has held that the Alaskan Tribes have concurrent jurisdiction over child custody proceedings. The Alaska Supreme Court's decision specifically rejects this position by holding that Alaskan Tribal Courts lack any jurisdiction over such matters. Additionally, the case presents a direct conflict between the Courts of California and Alaska in the context of this case, since California has transferred the matter to the tribe's jurisdiction, and Alaska has held that the Tribe lacks jurisdiction to hear the matter.

The conflicting decisions involve an important legal issue which has a significant impact upon many tribes and states. The decision directly affects over 200 Alaskan tribes, many of which are currently exercising tribal court jurisdiction over children's proceedings. Moreover, the decision indirectly affects many other non-Alaskan tribes subject to P.L. 280, which have fully functioning Tribal Courts. Finally, the matter affects almost all other states, since the majority of States seem to agree with the Ninth Circuit respecting the retained judicial power of Alaskan tribes to hear child custody matters. In such circumstances, it is likely that this matter will continue to arise as other states transfer ICWA proceedings to Alaskan tribal courts in accordance with the Ninth Circuit's decision.

Finally, the holding that P.L. 280 and ICWA imply a divestiture of tribal jurisdiction over child custody proceedings is at odds with recognized principles of Indian law articulated by this Court.

B. Reasons

1) Direct Conflicts Between Ninth Circuit and Alaska Supreme Court.

The ruling of the Alaska Supreme Court directly conflicts with the decision of the Ninth Circuit Court of Appeals in *Native Village of Venetie I.R.A. Council v. Alaska*, 944 F.2d 548 (9th Cir. 1991). In that case, the Ninth Circuit held that Alaskan Native tribes had concurrent jurisdiction in child custody matters. Under this decision, tribes such as Circle have the power to hear and decide custody matters respecting their children. As noted by the Alaska

Supreme Court, the *Venetie* court held that Alaska Native villages could be considered "sovereign", and therefore entitled to "the same rights and responsibilities as sovereign bands of native (sic) Americans in the continental United States". *Id.*, at 559.[4]

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[4] The Alaska Supreme Court correctly noted that in the *Venetie* case, the Court qualified the opinion based upon the condition that the tribal government must be a modern day successor to the sovereign historical bands of natives (sic)." This language relates to the unique tribal structure of the Venetie IRA, which is the governing body for the villages of Venetie and Arctic Village. In the case of Circle, there is no serious question about the fact that the Circle Native Community is the modern day successor to the sovereign historical bands of Natives of the area. As was noted in the briefing before this Court in *Blatchford v. Native Village of Noatak*, 111 S.Ct. 2578 (1991), the historical status of Circle is demonstrable by readily available anthropological material. Originally, the band was a Tudush Gwitchen Athabascan village with a semi-permanent settlement on the Yukon River approximately 48 miles upriver from current day Circle prior to 1883. *Compilations of Narrative of Explorations in Alaska*, US Govt. Printing Office, Washington, DC, 1900, Report of Lt. Schwatka, p. 315-316. *See also* Federal Field Committee for Development and Planning in Alaska, *Alaska Natives and the Land*, US Govt. Printing Office, Washington, DC, 1968. At this time, the village was governed by Chief Charlie, and was known as Charlie's Village. *Compilations id.*, at 343. In 1887, a trading post was established at the present location of Circle, which became a boom town during the gold strike on Birch Creek in 1893. Orth, *Dictionary of Alaska Place Names*, Geological Survey Professional Paper 567, US Govt. Printing Office, Washington, DC, 1967, p. 219. During this time, some of the members of Charlies Village moved to Circle. In 1914, as the gold boom ended, the old village was destroyed by the ice breakup of that year and the remaining members of the village moved to the present site of Circle. *Alaska Natives and the Land*, id., at 206. Until recently, the village was governed by various forms of

On the other hand, the Alaska Supreme Court has taken an opposite view. As noted in its opinion in this case, the Alaska Court has held that Congress has indicated that Alaskan Native groups should not be treated as sovereigns. *Native Village of Stevens v. Alaska Management & Planning*, 757 P.2d 32, 34 (Alaska 1988). As a consequence of this fundamental view, the Alaska Supreme Court has consistently held that P.L. 280 invested the State courts with exclusive jurisdiction over matters involving the custody of Indian children. *Native Village of Nenana v. Dept. of Health and Social Services*, 722 P. 2d 219 (Alaska 1986), *cert. denied*, 479 U.S. 1008 (1986); *In Re K.E.*, 744 P.2d 1173 (Alaska 1987).[5] The Alaska Supreme Court's opinion specifically notes that its holding is contrary to the holdings of the Ninth Circuit and that the Alaska Supreme Court is not bound by the decisions of the federal courts other than the United States Supreme Court. *In Re F.P., supra* at p. 2 n. 1 *citing Harrison v. State*, 791 P.2d 395, 363 n.7 (Alaska App. 1990). The

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traditional tribal governments. In 1991, the village reorganized its tribal government in a federal election conducted by the Secretary of the Interior under the terms of the Indian Reorganization Act 25 U.S.C. §476.

[5] The case *In Re J.M.*, 718 P.2d 150 (Alaska, 1986) is an anomalous result. In that case, the Alaska Court held that the Native Village of Kaltag had exclusive jurisdiction under the terms of 25 U.S.C. §1911(a). However, the Court did not address the effect of P.L. 280 or the reassumption terms of ICWA. The vitality of this case is in substantial question in Alaska. Notwithstanding the fact that the case has never been overruled by the Alaska Supreme Court, it is widely argued that the case has been overruled by implication of the subsequent decisions in *Nenana, K.E.*, and the present case.

conflict between the Alaska State Supreme Court and the Ninth Circuit in this matter is direct and unambiguous, and, as noted in the Alaska Court's opinion, is only resolvable by this Court.

2) Direct Conflict Between Alaska and California Courts.

This case uniquely presents a direct conflict between Alaska and California courts within the confines of this specific case. The California Court transferred the matter to the Tribe under 25 U.S.C. 1911(b), which is consistent with the Ninth Circuit's construction of ICWA. Since P.L. 280 does not subject Alaskan tribes to California jurisdiction, the California court would have been required to treat the Alaska tribe as any other tribe.[6]

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[6] This aspect of the case clearly illustrates the logical inconsistency of the Alaska decision. The conclusion that Alaska tribes lack concurrent jurisdiction over children's proceedings rests upon the assumption that P.L. 280 transferred all jurisdiction over civil matters from the federal courts to the Alaska state courts. Conceivably, this would leave no residual jurisdiction to the tribes. However, P.L. 280 only governs the jurisdictional relationship between states and the tribes within these particular states. As noted in *In Re Adoption of Buehl*, 555 P.2d 1334 (Wash. 1976), P.L. 280 did not grant any jurisdiction to a state respecting Indian tribes outside the boundaries of that particular state. Consequently, while P.L. 280 may have granted jurisdiction to Alaska over Indians within the State of Alaska, it is totally silent respecting the jurisdiction of California state courts over Alaska Natives and tribes. Even if P.L. 280 where to be construed as a divestiture of tribal jurisdiction respecting Alaska, it could not be construed to divest Alaskan tribes of any jurisdiction vis-a-vis the California courts.

In a subsequent collateral action respecting the same children, the Alaska courts have applied a conflicting construction of ICWA holding that the Tribe lacks any jurisdiction to determine these matters. This is totally irreconcilable with the California court's judgement. in short, California has decreed that the Tribe has jurisdiction over these children, while Alaska has decreed that the Tribe does not have jurisdiction over these same children. The obvious effect is a total disruption of the Tribal Court's orderly consideration of the affected child's welfare.

3) Impact Upon Alaskan and Other P.L. 280 States and Tribes.

This case involves an important legal issue which has a significant impact upon many tribes and states. The decision directly affects over 200 Alaskan tribes, many of which are currently exercising tribal court jurisdiction over children's proceedings. The Alaska Native Claims Settlement Act (ANSCA) lists over 200 Native villages in Alaska. *See* 43 U.S.C. 1610(b)(1). According to the analysis employed in *Noatak v. Hoffman*, 896 F.2d 1157 (9th Cir.

Of course, the argument suffers from a second logical fallacy: *i.e.*, the assumption that the federal jurisdiction transferred to the State's under P.L. 280 was exclusive jurisdiction. The law, however, is quite clear that the federal courts enjoy concurrent jurisdiction with the tribes. *U.S. v. Wheeler*, 453 U.S. 313 (1978). Consequently, the Alaska courts conclusion that P.L. 280 gave the states exclusive jurisdiction over Indians in the affected states would suggest that P.L. 280 gave the State courts greater jurisdiction over Indian affairs than enjoyed by the federal courts.

1990) (*rev. on other grounds* in *Blatchford v. Native Village of Nostak*, 111 S.Ct. 2578 (1991)), these Native villages are "Indian tribes" recognized as such by the Secretary of the Interior. Therefore, all of these tribes are affected by the conflict between State and Tribal Court jurisdiction.

Many of these Alaska Native villages are currently exercising tribal court jurisdiction over children's proceedings, which have given rise to numerous Tribal-State jurisdictional conflicts. For example, *Graybeal v. State of Alaska*, 17 Indian Law Reporter 2206 (9th Cir. Aug. 28, 1990) involved an Athabascan Indian child from the Native Village of Northway who was taken into protective custody by the State of Alaska and placed with the child's relatives. The Northway Tribal Court subsequently entered a Tribal Court order of adoption, granting these relatives full parental rights. Ultimately, the Ninth Circuit held that the adoptive parents had legal custody of the child.

In Re J.M., 718 P.2d 150 (Alaska 1986) involved a conflict of jurisdiction between the State of Alaska and a Alaska Native village tribal court. In that case, the Native Village of Kaltag claimed exclusive prior jurisdiction through its tribal court under section 1911(a) of the ICWA. *Id.* at 152. The tribe claimed that it had assumed legal protective custody of the child before the State of Alaska. *Id.* The State of Alaska opposed the tribe's position, but the Alaska State Supreme Court agreed that Kaltag had exclusive jurisdiction. *Id.* at 152, 153. *See also Native Village of Stevens v. Smith*, 770 F.2d 1486 (9th Cir. 1985) (Determination by tribal council that it would be in the best interest of the child to be taken into tribal custody constituted "judicial determination" of necessity for

foster care, for purposes of entitlement to federally assisted foster care payments), *cert. den.*, 106 S.Ct. 1640, 475 U.S. 1121, 90 L.Ed.2d 185; *Native Village of Venetie I.R.A. Council v. State of Alaska*, 918 F.2d 797 (9th Cir. 1990) (Alaskan Native villages were entitled to exercise concurrent jurisdiction with state over child custody determinations, requiring the State of Alaska to give full faith and credit to such determinations under the Indian Child Welfare Act, to the extent the villages were modern-day successors to historical sovereign bands of Native Americans).

In the Tanana Chiefs Conference, Inc., region[7] which includes 43 Native villages in Interior Alaska, there are eight pending child protection tribal court cases. They are: *In the Matter of L.W.*, Anvik Tribal Court No. 92-002, *In the Matter of the T. and E. Children*, Anvik Tribal Court No. 92-001; *In the Matter of the I. Children*, Dot Lake Tribal Court No. 92-0001; *In the Matter of N.J.*, Grayling/Shageluk Joint Tribal Court No. 01-92; *In the Matter of the P. Children*, Koyukuk Tribal Court No. 92-1; *In the Matter of K.D.*, Nenana Tribal Court No. 92-7-1; and *In the Matter of J. B.*, Holy Cross Tribal Court No. 91-1.

The Tribal court case pending in Holy Cross, *In the Matter of J.B.*, has a similar factual situation to the present *F.P.* case. In that case, the State of California transferred jurisdiction of its Indian child protection case to the Native Village of Holy Cross Tribal Court. Later, the State of Alaska took emergency custody of the child while the Tribal Court case was still pending. The Native Village of

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[7] Circle is within the Tanana Chiefs Conference region.

Holy Cross filed a Motion to Dismiss in the State's case (Superior Court Case No. 3AN-92-206/207 CP) because the Tribal Court had prior jurisdiction. The State Superior Court is holding its decision on the Motion to Dismiss in abeyance pending the outcome of the present case.

It is clear that the issue Tribal Court jurisdiction over children's matters will have a significant impact on the tribes in Alaska and the resolution of present and future Tribal Court cases.

The Alaska Supreme Court's decision in the present case could also indirectly affect many other non-Alaskan tribes subject to P.L. 280 (28 U.S.C. Section 1360; 18 U.S.C. 1162). P.L. 280 affects many states and the tribes within those states. Under the original statute, five states (California, Nebraska, Minnesota, Oregon and Wisconsin) were given jurisdiction "mandatorily," i.e., the state had no option whether or not to accept. The Territory of Alaska was added in 1958. (P.L. 85-615:72 Stat. 545 (1958)) Nine other states (Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, and Washington) assumed jurisdiction under the "optional" provisions of the statute. States that assumed jurisdiction through parallel legislation are New York, Kansas, North Dakota, and Iowa. Consequently, 17 states, and the numerous tribes within the states could be affected by the issues presented in this case. See Cohen, *Handbook of Indian Law,* pp. 362-363 n. 125; 372-376 (1982 ed.)

Of these 17 States, Alaska is the only State which has taken the position that Alaska Tribal Courts lack jurisdiction over child protection cases. *See In re Will of Jimeson,* 328 N.Y.S. 2d 466 (1972); *People v. Boots,* 434 N.Y.S.2d 850

(1981); *Val/Del Inc. v. Superior Court,* 145 Ariz. 558, 703 P.2d 502, 509 (Ariz. App. 1985); *Criminal Jurisdiction on the Seminole Reservation in Florida,* 85 I.D. 433 (Op. Sol. N-36907, Nov. 14, 1978); Op. No. 48 Atty. Gen. Neb. (1985); 70 Op. Atty. Gen. Wisc. 237 (1981). This issue effects these and all other States, because the majority of States appear to agree with the Ninth Circuit's position that Alaska Native tribes retain jurisdiction to hear child protection matters. Consequently, it is likely that other states will continue to transfer children's matters to Alaskan tribal courts.

4) The Decision is Wrong on its Merits.

The power of Indian tribes to operate tribal courts and administer justice is well established. *Ex Parte Crow Dog,* 109 U.S. 556 (1883); *U.S. v. Wheeler,* 435 U.S. 313 (1978); *Fisher v. District Court,* 424 U.S. 382 (1976). In the case of Circle, the new tribal constitution approved by the Secretary of the Interior under the Indian Reorganization Act (25 U.S.C. 476) specifically provides that the Tribal Council shall have the power

> To administer justice by serving as or establishing a Village court, and defining its duties and powers consistent with Federal law and Circle Village Judicial Code;

CONST. CIRCLE NATIVE COMMUNITY, ART. VIII, SEC. 1(1) (Appendix E).

As noted above, the issue as to whether tribes subject to P.L. 280 retain concurrent judicial power over their people and lands is an important question affecting tribes

in 19 states. The issue has been the subject of some litigation. This Court has specifically reserved the issue in *Washington v. Confederated Bands and Tribes of the Yakima Nation*, 439 US 463, 488 n. 32; 501 n. 48 (1979).[8]

With regard to children's matters, this Court has long since decided that Tribes retain jurisdiction over tribal children residing or domiciled within Indian country. *Fisher v. District Court*, 424 U.S. 382 (1976).[9] That case held that the Northern Cheyenne Tribal Court had exclusive jurisdiction vis-a-vis the states over a child custody matter involving a child member residing on the tribe's reservation. The *Fisher* decision was a capstone on a line of cases which held that Indian family matters involving child custody and adoption constituted essential tribal interests over which the tribes could exercise jurisdiction and be protected from unwarranted state government intrusions. *Wisconsin Potowatomies v. Houston*, 393 F. Supp. 719 (D. Mich. 1973); *Wakefield v. Little Light*, 276 Md. 333, 347 A. 2d 228 (1975). As with most tribal court matters, tribal court jurisdiction is concurrent with federal court

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[8] On remand before the Ninth Circuit, the Court held that state jurisdiction acquired under P.L. 280 was not exclusive as to the tribe and federal government. *Washington v. Confederated Bands and Tribes of the Yakima Nation*, 608 F.2d 750, 752 (9th Cir. 1979). Similarly, the US District Court has confirmed the concurrent criminal jurisdiction of the Colville Tribal Courts under P.L. 280. *Confederated Tribes of the Colville Indian Reservation v. Beck*, No. C-78-76 [6 ILR F-8] (E.D. Wash., Dec. 21, 1978).

[9] *See also Montana v. United States*, 450 U.S. 544, 564 (1981) (Tribes retain their inherent power to regulate domestic relations among members.)

jurisdiction over Indians. *U.S. v. Wheeler,* 435 U.S. 313 (1978).

In 1978, Congress confirmed the power of tribal courts over this subject area by enacting the Indian Child Welfare Act (ICWA). The Act confirmed tribal court jurisdiction over Indian children residing on Indian reservations, and provided for the transfer to tribal courts of State court proceedings respecting Indian children residing off reservation. 25 U.S.C. 1911. In most cases, tribal jurisdiction was exclusive, "except where such jurisdiction is otherwise vested in the State by existing Federal law". 25 U.S.C. 1911(a). This exception clearly refers to the 17 states which are subject to P.L. 280 or similar federal statutes extending state court jurisdiction over Indians in those states. Alaska is one of the states subject to P.L. 280.

There is little question that historically Alaska Natives developed tribal laws regulating child custody and adoption. See *Calista v. Mann,* 564 P.2d 53 (Alaska 1977)[10] Equally, there is little question that P.L. 280 extends state jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country within the State of

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[10] Equally, there is little question that Alaskan Natives had developed customary laws relating to marriage. *See Validity of Marriage by Custom Among the Native or Indians,* 54 ID 39 (1932). More specifically, the Athabascan people have clearly developed a traditional system of law governing their society. *See* Hippler & Conn, *Traditional Athabascan Law Ways and Their Relationship to Contemporary Problems of "Bush Justice".* (Institute of Social, Economic and Government Research, U. of Alaska, 1972).

Alaska. 28 U.S.C. §1360. The Alaska Supreme Court, however, has consistently held that this statute vests into the State Courts *exclusive* jurisdiction over such matters. In other words, the Alaska Courts have held that P.L. 280, and the ICWA – read together – have abrogated the power of tribal courts to determine matters of Indian child custody. *In Re F.P.*, supra. (1992); *Native Village of Nenana v. Dept. of Health and Social Services*, 722 P.2d 219 (Alaska 1986), *cert. denied*, 479 U.S. 1008 (1986); *In Re K.E.*, 744 P.2d 1173 (Alaska 1987). The Alaska Court's holdings in this line of cases do not rest upon the notion that P.L. 280 or ICWA expressly abrogated tribal powers. Rather, the Court's opinions conclude that such tribal powers were abrogated by implication.

These holdings are contrary to the generally accepted principles of Indian law articulated by this Court. In *Iowa Mutual Insurance Co. v. LaPlante*, 480 US 9, 20 (1987) this Court held

> Civil jurisdiction over such activities [by non-Indians] presumptively lies in the Tribal courts unless affirmatively limited by a specific treaty provision or federal statute. Because the Tribe retains all inherent attributes of sovereignty that have not been divested by the Federal Government, *the proper inference from silence . . . is that the sovereign power remains intact.* (emphasis added)

citing Merrion v. Jicarilla Apache Tribe, 455 U.S. 130, 149 n. 14 (1982) and *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 60 (1978). Unless Congress acts to abrogate a tribal power, the tribes retain their existing sovereign powers. Similarly, this Court has held that repeal by implication of an

established tradition of immunity or self-governance respecting Indians is disfavored. *Rice v. Rehner,* 463 U.S. 713, 720 (1983); *See also Bryan v. Itasca County,* 426 U.S. 373, 392 (1976). Thus, since Alaska Natives have traditionally regulated child custody and domestic relations matters prior to P.L. 280, the tribes would not lose such powers absent the express language in P.L. 280.

P.L. 280 is absolutely silent as to the power of Alaskan tribal courts. On the contrary, the statute plainly contemplates that tribal governmental power would continue, by providing that tribal ordinances and customs would be given full force and effect in civil cause of action. This Court in *Three Affiliated Tribes v. Wold,* 476 U.S. 877 (1986) stated that

> Pub. L. 280 was plainly not meant to effect total assimilation. . . . [N]othing in its legislative history remotely suggests that Congress meant the Act's extension of civil jurisdiction to the states should result in the undermining or destruction of such tribal governments as did exist.

See also Bryan v. Itasca County, 426 U.S. 373, 388 (1976). Consequently, tribes subject to P.L. 280 have been held to retain concurrent criminal jurisdiction over their members. *Walker v. Rushing,* 898 F.2d 672, 675 (8th Cir. 1990). There is nothing contained in the civil portion of P.L. 280 which would suggest a different result respecting the exercise of civil jurisdiction by Indian tribes.

Similarly, it is difficult to find in ICWA specific language which abrogates tribal authority over children's matters. On the contrary, this Court has found in ICWA a significantly different Congressional intent. In *Mississippi*

Band of Choctaw Indians v. Holyfield, 490 U.S. 30, 45 (1989) this Court noted that

> (ICWA's) purpose was in part to make clear that in certain situations the state courts did not have jurisdiction over child custody proceedings. Indeed. . . . Congress perceived the state and their courts as partly responsible for the problem it intended to correct.

The Court further noted,

> This conclusion is incapable from a reading of the entire statute, the main purpose of which is to curtail state authority

This Court has taken note that ICWA was intended to empower Indian tribes and to curtail state court power over Indian child custody mattes and that ICWA should be construed in accordance with the recognized intent of Congress. The construction of ICWA suggested by the Alaska Supreme Court stands in stark opposition to the recognized purposes of ICWA. Similar to this Court's comments in *Holyfield*, the conclusion of the Alaska Supreme Court "is incapable from a reading of the entire statute, the main purpose of which is to curtail state authority".

As noted by J. Rabinowitz in his dissent, given the principles of Indian law articulated by this Court, the conclusion that §1918 of ICWA and P.L. 280, taken together, divest tribes of concurrent jurisdiction over child custody matters, is inconsistent with the doctrine of inherent tribal sovereignty to. *In Re F.P.*, at 10.

CONCLUSION

For the foregoing reasons, the Alaska Supreme Court's decision should be reviewed and reversed by this Court. The Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

MICHAEL J. WALLERI

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Counsel of Record

March 18, 1993

APPENDIX A

THE SUPREME COURT OF THE STATE OF ALASKA

IN THE MATTER OF F.P., W.M. AND A.M., Minor Children under the Age of Eighteen (18) Years.	File No. S-4742 4FA 91 37 CP OPINION [No. 3906 – December 18, 1992]

Appeal from the Superior Court of the State of Alaska, Fourth Judicial District, Fairbanks, Mary E. Green and James A. Hanson, Judges.

Appearances: Michael J. Walleri & Lee D. Goodman, Jr., Tanana Chiefs Conference, Fairbanks, for Appellant Native Village of Circle. D. Rebecca Snow, Assistant Attorney General, Fairbanks, Charles E. Cole, Attorney General, Juneau, for Appellee State of Alaska.

Before: Rabinowitz, Chief Justice, Burke, Matthews, Compton and Moore, Justices.

PER CURIAM.

RABINOWITZ, Chief Justice, dissenting.

In March 1991 the Alaska Department of Health and Social Services took emergency custody of F.P., W.M. and A.M. The Department filed a petition for temporary custody. The Native Village of Circle intervened and moved to dismiss the superior court proceeding, claiming exclusive jurisdiction over the custody matter. The superior court denied the motion to dismiss. We affirm.

Circle is without jurisdiction in this child custody dispute. This case is controlled by *Native Village of Nenana v. Department of Health & Social Services*, 722 P.2d 219

(Alaska 1986), *cert. denied*, 479 U.S. 1008 (1986), and *In re K.E.*, 744 P.2d 1173 (Alaska 1987). Circle asks that we review our holdings in these cases in light of recent opinions of the United States Court of Appeals for the Ninth Circuit, especially *Native Village of Venetie I.R.A. Council v. Alaska*, 944 F.2d 548 (9th Cir. 1991).

The decision in *Native Village of Venetie* fails to persuade us that our prior cases should be overruled.[1] In concluding that the villages of Venetie and Fort Yukon had concurrent jurisdiction in child custody matters, the *Venetie* court held that these villages could be considered "sovereign," and therefore entitled to "the same rights and responsibilities as [ ] sovereign bands of native Americans in the continental United States," if they were "modern day successors to sovereign historical bands of natives." *Id.* at 559. This opinion is contrary to *Native Village of Stevens v. Alaska Management & Planning*, 757 P.2d 32 (Alaska 1988), where we concluded that "the history of the relationship between the federal government and Alaska Natives . . . indicates that Congress intended that most Alaska Native groups not be treated as sovereigns." *Id.* at 34.

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[1] As the court of appeals observed in *Harrison v. State*, 791 P.2d 359 (Alaska App. 1990):

> Where a federal question is involved, the courts of Alaska are not bound by the decisions of a federal court other than the United States Supreme Court. The converse is also true; federal courts in Alaska are not bound by decisions of Alaska state courts on questions of federal law.

Id., at 363 n.7 (citations omitted).

Under 25 U.S.C. § 1918(a) (1988), any Alaskan Native group seeking to "reassume" jurisdiction over child custody matters must first petition the Secretary of the Interior for approval.[2] The Ninth Circuit recognized this in *Venetie. Venetie,* 944 F.2d at 555. Nevertheless, it concluded that neither the Indian Child Welfare Act (25 U.S.C. §§ 1901-63 (1988)) nor Public Law 280 prevents Alaskan Native groups from exercising concurrent jurisdiction over child custody matters. *Id.* at 562.

We reached an opposite conclusion in *Native Village of Nenana:*

> Our reading of 25 U.S.C. § 1918(a) indicates that Congress intended that Public Law 280 give certain states, including Alaska, exclusive jurisdiction over matters involving the custody of Indian children, and that those states exercise such jurisdiction until a particular tribe petitions to reassume jurisdiction over such matters,

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[2] Section 1918(a) provides:

> Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by Title IV of the Act of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

The Act of August 15, 1953 is commonly referred to as "Public Law 280." Alaska has been a "Public Law 280" state since 1958. 72 Stat. 545 (1958).

> and the Secretary of the Interior approves [the] tribe's petition.

Native Village of Nenana, 722 P.2d at 221. Our analysis of the issue need not be repeated here. *See id.* at 221-22; *see also In re K.E.*, 744 P.2d at 1174. We remain convinced that our interpretation of § 1918(a) is correct. Nothing in *Native Village of Venetie* persuades us to change our opinion.

Since Circle has not successfully petitioned the Secretary of the Interior to reassume jurisdiction pursuant to 25 U.S.C. § 1918(a), it has no jurisdiction to decide child custody matters. The superior court therefore correctly denied Circle's motion to dismiss.[3]

AFFIRMED.

RABINOWITZ, Chief Justice, dissenting.

I dissent from this court's affirmance of the superior court's denial of Native Village of Circle's motion to dismiss the state's motion for temporary custody. The rationale for the court's opinion is that the superior court's ruling should be affirmed because Circle lacks jurisdiction to decide child custody matters since it has not as yet successfully petitioned the Secretary of Interior to reassume jurisdiction over child custody matters pursuant to 25 U.S.C. 1918(a).

Unlike the majority I am persuaded by the Ninth Circuit's analysis in *Native Village of Venetie I.R.A. Council v. Alaska*, 944 F.2d 548 (9th Cir. 1991) that our decisions in

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[3] We have reviewed Circle's remaining arguments and have concluded that they lack merit.

Native Village of Nenana v. Department of Health & Social Services, 722 P.2d 219 (Alaska 1986), *cert. denied*, 479 U.S. 1008 (1986) and *In re K.E.*, 744 P.2d 1173 (Alaska 1987) were incorrectly decided and should be overruled. It follows that I cannot join the majority in its reliance upon *Native Village of Stevens v. Alaska Management & Planning*, 757 P.2d 32 (Alaska 1988) in support of its rejection of the Ninth Circuit's *Venetie* opinion. In brief, I adhere to the views I expressed in my dissent in *Native Village of Stevens*.

With the passage of the Indian Child Welfare Act (ICWA), Congress implemented the policy of promoting tribal integrity by establishing various procedural and substantive protections to govern Indian child custody matters.[1] "Significantly, the declaration of the Act's legislative purpose includes both the protection of 'the best

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[1] The policy of ICWA was based on the following congressional findings:

> Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds –
>
> (1) that Clause 3, section 8, article I of the United States Constitution provides that "The Congress shall have Power . . . To regulate Commerce . . . with Indian tribes" and, through this and other constitutional authority, Congress has plenary power over Indian affairs;
>
> (2) that Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;
>
> (3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a

interests of Indian children' and the promotion of 'the stability and security of Indian tribes and families.' "[2]

To accomplish the federal policy of promoting tribal integrity by stopping the "wholesale separation of Indian children from their families,"[3] ICWA mandates specific

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direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;

(4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

(5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

25 U.S.C. § 1901 (1988).

[2] Barbara Ann Atwood, *Fighting Over Indian Children: The Uses and Abuses of Jurisdictional Ambiguity*, 36 UCLA L. Rev. 1051, 1058 (1989); citing to § 1902. Section 1902 states:

> The Congress hereby declares that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.

[3] H.R. Rep. No. 1386, 95th Cong., 2d Sess. 9, *reprinted in* 1978 U.S. Cong. & Admin. News 7530, 7531.

jurisdictional rules[4] and further mandates that federal, state, and tribal governments:

> [G]ive full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

25 U.S.C. § 1911(d) (1988).

Alaska Native villages are recognized by Congress as "Indian tribes" for purposes of the ICWA. *See* 25 U.S.C.

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[4] 25 U.S.C. § 1911(a) provides:

> An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

Section 1911(b) provides:

> In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent of the Indian custodian or the Indian child's tribe: *Provided*, That such transfer shall be subject to declination by the tribal court of such tribe.

§ 1903(8).[5] This court has previously acknowledged the rule of Alaskan tribal courts in Indian child custody matters. *See In re J.M.*, 718 P.2d 150 (Alaska 1986) (Village council operated under the code or custom of an "Indian tribe" and, under the ICWA, was vested with exclusive jurisdiction as a "tribal court" over matter of custody of Indian child and, in absence of a waiver, was not precluded from claiming same in proceedings in state court to place child in foster care and terminate natural mother's parental rights.).

Tribes have jurisdiction over their members by virtue of their inherent sovereignty. *See Montana v. United States*, 450 U.S. 544, 564 (1981) ("[T]he Indian tribes retain their inherent power to determine tribal membership, to regulate domestic relations among members, and to prescribe rules of inheritance for members."); *see also Duro v. Reina*, 495 U.S. 676, 685-86 (1990) ("the retained sovereignty of the tribes is that needed to control their own internal relations, and to preserve their own unique customs and social order [and] . . . to prescribe and enforce rules of conduct for [their] own members."). A tribe's sovereign authority, moreover, is presumed until Congress affirmatively acts to take such authority away. *Native Village of Venetie*, 944 F.2d at 556; *see also United States v. Wheeler*,

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[5] Section 1903(8) states:

"Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in section 1602(c) of Title 43.

435 U.S. 313, 323 (1978) ("[U]ntil Congress acts, the tribes retain their existing sovereign powers.").

Given these principles, in my view it is inconsistent with the doctrine of inherent tribal sovereignty to conclude that § 1918[6] of the ICWA and Public Law 280, taken together, divest tribes of even concurrent jurisdiction over child custody matters. Such a conclusion can only be reached if Public Law 280 is interpreted as a divestiture statute.

It is on this point that I find Judge O'Scannlain's analysis in *Native Village of Venetie* persuasive. There Judge O'Scannlain wrote:

> The Supreme Court has also adopted the view that Public law 280 is not a divestiture statute. *See Cabazon Band of Mission Indians*, 480 U.S. at 207-12, 107 S. Ct. at 1087-90; *Bryan*, 426 U.S. at 383-90, 96 S. Ct at 2108-12; *see also Walker v. Rushing*, 898 F.2d 672, 675 (8th Cir. 1990) ("Public Law 280 did not itself divest Indian tribes of their sovereign power to punish their

---

[6] Section 1918 limits the jurisdiction granted in sections 1911(a) & (b). Section 1918(a) provides:

> Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by Title IV of the Act of April 22, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

own members for violations of tribal law. Nothing in the wording of Public Law 280 or its legislative history precludes concurrent jurisdiction."). In *Bryan*, the Court observed that "nothing in [Public Law 280's] legislative history remotely suggests that Congress meant the Act's extension of civil jurisdiction to the States should result in the undermining or destruction of such tribal governments as did exist and a conversion of the affected tribes into little more than 'private voluntary organization.' " 426 U.S. at 388, 96 S. Ct. at 2111 (quoting *United States v. Mazurie*, 419 U.S. 544, 557, 95 S. Ct. 710, 717, 42 L. Ed. 2d 706 (1975)). The Court has rejected all interpretations of Public Law 280 which would result in an undermining or destruction of tribal governments.

. . . .

Finally, we note that Congress was aware, while drafting the Indian Child Welfare Act, that the U.S. Department of Justice viewed Public Law 280 as providing for concurrent jurisdiction among state and tribal courts. Then – Assistant Attorney General for legislative Affairs Patricia M. Wald wrote to Interior and Insular Affairs Committee Chairman Morris K. Udall: "As you may be aware, the courts have consistently recognized that tribal governments have exclusive jurisdiction over the domestic relationships of tribal members located on reservations, *unless a State has assumed concurrent jurisdiction pursuant to Federal legislation such as Public Law 83-280.*" Letter from Assistant Attorney General Patricia M. Wald to Hon. Morris K. Udall (Feb. 8, 1978), included in H.R. Rep. No. 1386, 95th Cong. 2d

Sess. 35, *reprinted in* 1978 U.S. Code Cong. & Admin. News 7530, 7558 (emphasis added).

In spite of the foregoing, Alaska suggests that section 1918 of the Indian Child Welfare Act would be rendered meaningless by any non-divestiture interpretation of Public Law 280. However, the two statutes can be harmonized without construing Public Law 280 as a divestiture statute. *See Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1018, 104 S.Ct. 2862, 2880, 81 L. Ed. 2d 815 (1984) (statutes capable of being harmonized should be so construed). The relevant portions of the Indian Child Welfare Act enable the Secretary of the Interior to grant to a tribe, upon receipt of a proper petition, exclusive jurisdiction (over all or a portion of the appropriate "Indian country") or referral jurisdiction of child-custody proceedings. *See* 25 U.S.C. § 1918(b)(2) (1988). Each of these types of jurisdiction is broader than any tribal jurisdiction which is concurrent with the states. Exclusive jurisdiction, of course, is clearly broader than concurrent jurisdiction. Likewise, referral jurisdiction is broader in scope than concurrent jurisdiction, in that referral jurisdiction is concurrent *but presumptively tribal* jurisdiction. *See id.* § 1911(b). Thus, there is something for a tribe to "reassume" under section 1918 – namely, exclusive or referral jurisdiction – even if Public Law 280 is read as not divesting the tribes of concurrent jurisdiction.

In sum, giving the benefit of doubt to Alaska, we conclude that Public Law 280 and the Indian Child Welfare Act are, at best, ambiguous as to whether states have exclusive or concurrent jurisdiction over child custody

> determinations where the tribe has not petitioned for exclusive or referral jurisdiction. Of course, ambiguities are to be resolved to the benefit of Indians. *Montana v. Blackfeet Tribe*, 471 U.S. 759, 766, 105 S. Ct. 2399, 2403, 85 L. Ed. 2d 753 (1985). Accordingly, resolving the jurisdictional ambiguities in favor of the villages, we hold that neither the Indian Child Welfare Act nor Public Law 280 prevents them from exercising concurrent jurisdiction. If the native villages of Venetie and Fort Yukon are sovereign entities which may exercise dominion over their members' domestic relations, Alaska must give full faith and credit to any child-custody determinations made by the villages' governing bodies in accordance with the full faith and credit clause of the Indian Child Welfare Act.

Id. at 560-62.[7]

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[7] In regard to the majority's reliance on *Native Village of Stevens v. Alaska Management & Planning*, 757 P.2d 32 (Alaska 1988), I reaffirm the views expressed in my dissenting opinion in that case and take this occasion to explicitly reiterate my conclusion that:

> As stated earlier I agree with the court that there has never been any express federal recognition of Alaska Native villages as tribes for purposes of sovereign immunity. However, it is equally clear that Congress has never expressly denied sovereign immunity to these villages. The unfortunate but inescapable fact is that Congress has steadfastly avoided defining the extent and limits of Native sovereignty in Alaska. Illustrative of this fact are the recent "1991" amendments to ANCSA, in which Congress declared, "[N]o provision of this Act shall . . . confer on, or deny to, any Native organization any degree of sovereign governmental authority over lands . . . or persons in Alaska. . . . " Alaska Native Claims Settlement Act

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Amendments of 1987, Pub. L. No. 100-241, § 2(8)(B), 101 Stat. 1788, 1789 (1988). *See also id.* § 17(a), 101 Stat. 1814. The Senate Report on the bill stated:

> . . . .
>
> This is an issue which should be left to the courts in interpreting applicable law and that these amendments should play no substantive or procedural role in such court decisions.

S. Rep. No. 201, 100th Cong. 1st Sess. 23 (1987), U.S. Code Cong. & Admin. News 1988, pp. 3269, 3274.

Thus, it appears that Congress has chosen to abdicate to the courts on this issue. In the absence of any express federal recognition or waiver of sovereign immunity, this court is bound to follow the common law principles of tribal sovereign immunity announced by the Supreme Court. In my view the court's opinion fails to do this.

Id. at 49-50.

APPENDIX B

TANANA CHIEFS CONFERENCE
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Michael J. Walleri
Alicemary L. Closuit
Attorneys for the Native Village of Circle

IN THE SUPERIOR COURT FOR THE
STATE OF ALASKA

FOURTH JUDICIAL DISTRICT

IN THE MATTER OF:	)
PIZARRO, Floralinda, d.o.b. 04/25/85	)
MARTINEZ, William, d.o.b. 06/16/88	)
MARTINEZ, Anthony, d.o.b. 11/06/89	)
Minor Children Under the Age of Eighteen (18) Years.	)

Case No. 4FA-91-37 CP

ORDER

(Filed June 28, 1991)

[Motion to Dismiss Denied]

~~Intervener, the Native Village of Circle, having moved to dismiss this action based upon the prior exclusive jurisdiction of the Native Village of Circle, and this Court being fully advised in the premises,~~

IT IS HEREBY ORDERED that this case is dismissed.

DATED this 27 day of June, 1991 at Fairbanks, Alaska.

/s/ James A. Hanson
JUDGE OF THE
SUPERIOR COURT
James A. Hanson

APPENDIX C

25 USC § 1360. State civil jurisdiction in actions to which Indians are parties.

(a) Each of the States listed in the following table shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country as they have elsewhere within the State:

State of	Indian country affected
Alaska	All Indian country within the State
California	All Indian country within the State
Minnesota	All Indian country within the State Except the Red Lake Reservation
Nebraska	All Indian country within the State
Oregon	All Indian country within the State Except the Warm Springs Reservation
Wisconsin	All Indian country within the State

(As amended July 10, 1984, Pub.L. 98-353, Title I, § 110, 98 Stat. 342.)

25 USC § 1911. Indian tribe jurisdiction over Indian child custody proceedings.

(a) An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the

Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

(b) In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: *Provided*, That such transfer shall be subject to declination by the tribal court of such tribe.

(c) In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding.

(d) The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity. (Pub. L. 95-608, Title I, § 101, Nov. 8, 1978, 92 Stat. 3071.)

25 USC § 1918. Reassumption of jurisdiction over child custody proceedings.

(a) Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by Title IV of the Act

of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

(b)(1) In considering the petition and feasibility of the plan of a tribe under subsection (a) of this section, the Secretary may consider, among other things:

(i) Whether or not the tribe maintains a membership roll or alternative provision for clearly identifying the persons who will be affected by the reassumption of jurisdiction by the tribe;

(ii) The size of the reservation or former reservation area which will be affected by retrocession and reassumption of jurisdiction by the tribe;

(iii) The population base of the tribe, or distribution of the population in homogeneous communities or geographic areas; and

(iv) The feasibility of the plan in cases of multitribal occupation of a single reservation or geographic area.

(2) In those cases where the Secretary determines that the jurisdictional provisions of section 1911(a) of this title are not feasible, he is authorized to accept partial retrocession which will enable tribes to exercise referral jurisdiction as provided in section 1911(b) of this title, or, where appropriate, will allow them to exercise exclusive jurisdiction as provided in section 1911(a) of this title

over limited community or geographic areas without regard for the reservation status of the area affected.

(c) If the Secretary approves any petition under subsection (a) of this section, the Secretary shall publish notice of such approval in the Federal Register and shall notify the affected States or States of such approval. The Indian tribe concerned shall reassume jurisdiction sixty days after publication in the Federal Register of notice of approval. If the Secretary disapproves any petition under subsection (a) of this section, the Secretary shall provide such technical assistance as may be necessary to enable to [sic] tribe to correct any deficiency which the Secretary identified as a cause for disapproval.

(d) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under section 1919 of this title. (Pub.L. 95-608, Title I, § 101, Nov. 8, 1978, 92 Stat. 3074.)

APPENDIX D

D1

In the Superior Court of the State of California
IN AND FOR THE COUNTY OF SANTA CLARA

STATE OF CALIFORNIA,)
)
COUNTY OF SANTA CLARA)

I, ANNA L. OLLINGER, COMMISSIONER, one of the ~~Judges~~ COMMISSIONERS of the Superior Court of said State and County, do hereby certify that GRACE K. YAMAKAWA, County Clerk, whose name is subscribed to the foregoing Certificate of Attestation, now is, and was at the time of signing and sealing the same, Clerk of Santa Clara County, State of California, and ex-officio Clerk of said above named Court and keeper of the Records and Seals thereof, duly elected and qualified; that full faith and credit are and of right ought to be given to all of his official acts as such in all Courts of Record and elsewhere; that said signature is genuine, and that his said attestation is in due form of law and by the proper officer.

[SEAL] Given under my hand this APR 12 1991 day of _____ A.D. 19__.

/s/ Anna L. Ollinger
Judge of the Superior Court of the State of California, is and for the County of Santa Clara.
ANNA L. OLLINGER
COMMISSIONER

STATE OF CALIFORNIA,)
)
COUNTY OF SANTA CLARA)

I, GRACE K. YAMAKAWA County Clerk, Clerk of Santa Clara County, and ex-officio Clerk of the Superior Court in and for said County and State, do hereby certify that ANNA L. OLLINGER COMMISSIONER, whose genuine signature appeared to the foregoing certificate, was, at the time of signing the same, one of the ~~Judges~~ COMMISSIONER of the Superior Court of the State of California, in and for the County of Santa Clara, duly commissioned and qualified: that full faith and credit are and of right ought to be given to all his official acts, as such, in all Courts of Record and elsewhere.

[SEAL] In Testimony Whereof, I have hereunto set my hand, and affixed the seal of said Court, at my office, this APR 12 day of _____ A.D. 19__

/s/ Grace K. Yamakawa
County Clerk and ex-officio Clerk of the Superior Court of the State
Illegible

THE SUPERIOR COURT OF THE
STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA
JUVENILE COURT

No. JD00165 Date: FEB 27 1990

Name: /s/ William Martinez 6-16-88

/s/ Anthony Martinez 11-6-89

PRESENT BEFORE THE COURT:

[ ] MINOR [X] ___ MOTHER [X] ___ FATHER

R. Kip Indian Center

_____

_____

Present: Atty. M. Walleri (by phone from Alaska)

HON. ANNA L. OLLINGER, JUDGE
M. DEMONJA, CLERK
M. TORREANO, REPORTER
JPO/DSS COURT OFFICER: N. BRADLEY,

DISTRICT ATTORNEY: D. THOMAS,

COUNTY COUNSEL: M. DE ANDA,

PUBLIC DEFENDER: T. Spielbauer/m,

ATTORNEY(S): D. Nadler/f.

NATURE OF PROCEEDINGS:

* * *

[X] TRIAL SETTING/I. D. OF COUNSEL

* * *

[X] ORIGINAL PETITION;
Date Filed: 2-6-90

* * *

THE COURT ORDERS:

* * *

[X] Petition filed 2-6-90, 2-16-90
is [ ] Off Calendar; [X] Dismissed;
[ ] CASE DISMISSED re Sec. 300 Welf, Inst. Code;

* * *

[X] Motion to intervene granted.

[X] Proceedings transferred to Native Village of Circle pursuant to USC-911 Subsection b.

* * *

/s/ Anna L. Ollinger

APPENDIX E

UNITED STATES DEPARTMENT OF THE INTERIOR
(SEAL) (SEAL)
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

Mr. Michael Stancampiano
Superintendent, Fairbanks Agency
Federal Building & Courthouse Oct 04 1991
101 12th Avenue – Box 16
Fairbanks, Alaska 99701

Dear Mr. Stancampiano:

We have received the results of the election held on August 20, 1991, by the qualified voters of the Circle Native Community. The election was called in accordance with an order issued on June 25, 1991, by the Assistant Secretary – Indian Affairs which permitted the qualified voters of the Circle Native Community to vote on the adoption or rejection of a proposed constitution.

As evidenced by the completed Certificate of Results of Election, the Constitution of the Circle Native Community, Alaska, was duly adopted by a vote of 21 for an 1 against in an election in which at least thirty percent (30%) of the 39 members registered and entitled to vote cast their ballots.

You will note that the enclosed certificate refers to the Circle Native Community rather than "tribe" since "community" is the word used in the document itself. You will also note that the language of the approval certificate has been modified. The Native Village of Circle does not currently own any land according to our information. We have deleted the reference to lands it does not own. As modified, the language will also conform to the language provided counsel for the village on June 12, 1991.

The Constitution of the Circle Native Community, Alaska, is hereby approved pursuant to the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by 230 D.M. 2.4, and in accordance with the terms of our authorization letter of June 25, 1991. Please deliver the enclosed original document to the Community.

Sincerely,

/s/ Eddie F. Brown
Assistant Secretary – Indian Affairs

Enclosure

cc: Area Director, Juneau
Superintendent, Fairbanks Agency
Michael J. Walleri, Tanana Chiefs Conference, Inc. 201 First Avenue, Fairbanks, Alaska 99701-4897
Chief, Circle Native Council, P.O. Box 8, Circle, Alaska 99733
Scott Keep, Assistant Solicitor, Tribal Gov't & Alaska, MIB 6456
Chief, Branch of Tribal Enrollment

CONSTITUTION
OF THE
CIRCLE NATIVE COMMUNITY

PREAMBLE

We, the Alaska Natives, residents of the State of Alaska, and citizens of the United States, constitute the Native Community of Circle, Alaska, and by this declaration we

assert our freedom as a sovereign people in a dependent association with the United States of America. As such, we do ordain and institute this constitution to promote our community's social, economic and political progress by authority of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Acts of June 15, 1935 (49 Stat. 378), May 1, 1936 (49 Stat. 1250), and November 1, 1988 (102 Stat. 2938).

ARTICLE I – NAME

The name of this organization shall be the Circle Native Community.

ARTICLE II – TERRITORY

The jurisdiction of the Circle Native Community shall extend to all lands constituting the dependent Indian Community of Circle as defined by Federal law.

ARTICLE III – MEMBERSHIP

Section 1. Basic Membership. The basic membership of the Circle Native Community shall consist of all Alaska Natives whose names appear on the roll of Circle Native Community approved by the Secretary of the Interior on March 13, 1990; provided that, the council may correct the basic membership subject to the approval of the Secretary of the Interior.

Section 2. Qualifications for Membership. Any person of at least one-quarter (1/4) degree Alaska Native or other Federally recognized American Indian blood who meets any

of the following qualifications shall be eligible to be a member of the Circle Native community:

(a) is at least one-quarter (1/4) degree Alaska Native or other Federally recognized American Indian blood; and has physically resided in the Native Village of Circle, Alaska, for a period of at least one (1) year immediately prior to the date of application for membership; or

(b) is descended from an enrollee to Circle under:
1. the terms of the Alaska Native Claims Settlement Act, as amended; or
2. the basic membership roll approved by the Secretary of the Interior pursuant to Section 1 of this Article.

Section 3. Regulation of Membership. The council shall have the power to enact ordinances and resolutions, not inconsistent with this constitution and subject to the review of the Secretary of the Interior prescribing rules and regulations governing membership, including application and appeal procedures, loss of membership, and adoption of members. The council shall have the power to adopt ordinances, subject to the review of the Secretary of the Interior, to extend the privilege of membership for community purposes to persons not otherwise eligible under Section 2 of this Article. Such persons shall not be entitled to hold elective office or vote in village elections pursuant to this constitution.

ARTICLE IV – GOVERNING BODY

Section 1. Name. The governing body of the Circle Native Community shall be the Circle Community Council hereinafter referred to as the council.

Section 2. Composition. The council shall include a first chief, second chief, secretary, treasurer and one (1) council member.

ARTICLE V – ELECTIONS

Section 1. Voter Qualifications. Any duly enrolled member of the Circle Native Community eighteen (18) years of age or older and who has resided for at least one (1) year in the community prior to an election shall be entitled to vote in all community elections.

Section 2. Qualifications of Candidates. Any duly enrolled member of the community who is at least eighteen (18) years of age on the date of the election and who has resided for at least one (1) year in the community prior to the election shall be eligible to become a candidate for election to membership on the council and serve in that capacity provided that no persons shall be a candidate for more than one (1) position in any election.

Section 3. First Election. The first regular election of officials under this constitution shall be held within sixty (60) days of the effective date of this constitution at which time a system of staggered terms shall be established. At the first regular election under this document, the first chief, the secretary and one (1) council member shall be elected to hold office for a term of two (2) years. The second chief, and the treasurer shall be elected for a term

of one (1) year. Thereafter, all terms of office shall be for two (2) years. Members shall hold office until their successors are duly elected and seated.

Section 4. Nominations. The time, place, and manner of nominations shall be specified in the election ordinance adopted pursuant to Section 5 of this Article.

Section 5. Election Ordinance. An election ordinance, consistent with this constitution, shall be adopted by the council within six (6) months following the effective date of this constitution which shall set forth the procedures to be followed in conducting each of the various types of elections called for in this constitution, subsequent to the first election of officers in accordance with Section 3.

The ordinance shall include provisions for conducting all tribal elections by secret balloting, nomination of candidates, maintenance of a current list of eligible voters, and the settling of election disputes.

Further, the ordinance shall spell out the procedure and format to be used whenever it is necessary to submit petitions for any purpose to the council and set forth a procedure for determining the validity of such petitions.

Section 6. Election Board. There shall be an election board appointed by the council whose duties shall be to supervise, administer, and conduct all tribal elections. The election board shall certify the election of community officials within five (5) days after the election. No member of the election board shall at the same time be a member of the council or a candidate for a position on the council.

ARTICLE VI – REMOVAL, RECALL AND FORFEITURE

Section 1. Removal. Any council member or other official found guilty by the council of behavior involving gross misconduct in office or neglect of duty shall be removed from office if at least three (3) members of the council vote in favor of such removal. Voting must be by secret ballot and the first chief is entitled to vote. If the accused is a member of the council, the accused shall have the right to cast a secret ballot. Before any vote for removal is taken, the person subject to removal shall be given a written statement of the charges against him at least ten (10) days before the meeting of the council at which he is to appear and he shall be given an opportunity to answer any and all charges at the designated council meeting. If the person subject to removal fails to appear before the council, the council shall proceed with the vote as scheduled. The decision of the council shall be final. No member of the council shall preside over the meeting at which his removal is being considered.

Section 2. Recall. Community members shall have the power to recall any member of the council. The recall process shall be initiated by filing with the council a valid petition asking for such recall, signed by at least thirty percent (30%) of the eligible voters, and setting forth the reasons for the petition. Within thirty (30) days after receipt of a valid recall petition, the council shall call and conduct an election to consider the recall of the official named in the petition.

The election shall be conducted pursuant to the election ordinance. Once an individual has been subjected to

recall proceedings, he shall not again be subject to such action during the balance of his term of office.

Section 3. Forfeiture. If any member of the council shall be found guilty of a felony in any federal or state court, shall die, resign or is absent from three (3) successive meetings without being excused by the council, he shall automatically forfeit his office.

ARTICLE VII – VACANCIES

Section 1. Any office which has been vacated, whether it be by removal, recall or forfeiture, shall be filled by appointment of the council at its next meeting and such replacement shall serve the unexpired term of office.

ARTICLE VIII – POWERS

Section 1. The council shall have powers and responsibilities hereinafter provided, subject to any limitations imposed upon such powers by the statutes and laws of the United States.

(a) To consult, negotiate, contract or conclude agreements with Federal, State, and local governments on activities which may affect the Circle Native Community;

(b) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior or his authorized representative so long as such approval is required by Federal law;

(c) To receive advice from and make recommendations to the Secretary of the Interior with regard to all appropriation estimates for all projects which are for

the benefit of members of the Circle Native Community prior to the submission of such estimates to the Office of Management and Budget and Congress;

(d) To acquire property and to accept gifts;

(e) To join and/or charter community housing authorities;

(f) To charter community enterprises, corporations and associations;

(g) To prescribe rules and regulations governing future membership, loss of membership and the adoption of members;

(h) To administer community assets and manage all economic affairs and enterprises of the community, including the lease, sale or other disposition of lands owned by the community;

(i) To promote the peace, safety, health and general welfare of the members of the community;

(j) To enact ordinances and regulations consistent with this constitution for the conduct and administration of all tribal elections, the appointment of an election board and the regulations of its duties;

(k) To levy and collect taxes, fees and assessments from members for community purposes; and

(l) To administer justice by serving as or establishing a Village court, and defining its duties and powers consistent with Federal law and Circle Village Judicial Code;

(m) To encourage and foster the arts, crafts, traditions, language and culture of the community.

Section 2. Any rights and powers heretofore vested in the Circle Native Community but not expressly referred

to in this constitution shall not be lost by reason of their omission, but may be exercised by the council, upon approval by referendum.

ARTICLE IX – POPULAR PARTICIPATION IN GOVERNMENT

Section 1. Initiative. The eligible voters of the community shall have the right to propose legislation and vote by secret ballot to determine whether it will be adopted or rejected. Upon receipt of a valid petition signed by at least thirty percent (30%) of the eligible voters, the council shall call an election to be conducted by the election board no later than thirty (30) days after receipt of the petition. An affirmative vote by at least a majority of the eligible voters shall be required to determine the issues or questions submitted to the voters.

Section 2. Referendum. The council by an affirmative vote of at least three (3) of its members shall call an election to be conducted by the election board within thirty (30) days of such council decision for the purpose of deciding by secret ballot issues or questions that are within the authority of the council. An affirmative vote by at least a majority of the eligible voters shall be required to determine the issue or question submitted to the voters.

Section 3. The decision of the voters in both initiative and referendum elections shall be binding on the council and the community and shall remain in full force until amended or rescinded by subsequent action of the voters or expires by its own terms.

ARTICLE X – RIGHTS OF MEMBERS

Section 1. All members of the community shall enjoy without hindrance equal rights of life, liberty and the pursuit of happiness.

Section 2. This constitution shall not in any way alter, abridge or otherwise jeopardize the rights and privileges of the members of the community as citizens of the State of Alaska or the United States.

Section 3. The individual property rights of any member of the Circle Native Community shall not be altered, abridged or otherwise affected by the provisions of this constitution.

Section 4. Community members shall have the right to review all council records including financial records at any reasonable time in accordance with procedures established by the council.

Section 5. The Circle Native Community in exercising its powers of self-government shall not:

(a) Make or enforce any law prohibiting the full exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

(b) Violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizure, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(c) Subject any person for the same offense to be twice put in jeopardy;

(d) Compel any person in any criminal case to be a witness against himself;

(e) Take any private property for public use without just compensation;

(f) Deny to any person in a criminal proceeding the right to a speedy trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and, at his own expense, to have the assistance of counsel for his defense;

(g) Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one (1) offense any penalty or punishment greater than imprisonment for a term of one (1) year or a fine of $5,000.00, or both;

(h) Deny to any person within its jurisdiction the equal protection of its laws or deprive any persons of liberty or property without due process of law;

(i) Pass any bill of attainder or ex post facto law;

(j) Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons.

ARTICLE XI – DUTIES OF OFFICERS

Section 1. Newly elected officers shall assume their respective office and duties immediately upon being elected and seated.

Section 2. The first chief shall preside at all meetings of the community and of the council and shall execute on behalf of the community all contracts, leases or other

documents approved by the council. He shall vote in all council matters before the council. He shall have general supervision of all other officers, employees and committees of the community and see that their duties are properly performed. When the council is not in session, he shall be the official representative of the community.

Section 3. The second chief shall assist the first chief when called upon to do so. In the absence of the first chief, he shall preside and when so presiding shall have all the rights, privileges, duties and responsibilities of the first chief.

Section 4. The secretary shall keep the minutes of all meetings and shall attest to the enactment of all resolutions and ordinances. Copies of all minutes, resolutions, and ordinances shall be submitted by him to the local Bureau Agency Superintendent as soon after enactment as possible. The secretary shall issue notices of all meetings and elections and conduct all general correspondence as directed by the council. The treasurer shall carry out the financial directives of the council, receive all local monies and keep an accurate account of the receipts and disbursements. Funds shall be deposited in the Circle Native Community's account in a local bank selected by the council where depositor's funds are insured by the Federal Deposit Insurance Corporation. All disbursements shall be made by check in accordance with resolutions of the council.

* * *

shall be collected and made available to community members and others affected upon reasonable request.

Section 7. All meetings shall be conducted in accordance with Robert's Rules of Order.

Section 8. Regular meetings of the general membership of the Circle Native Community shall be held at least twice annually. The date, time and place of such meetings shall be determined by the council. Special meetings of the general membership may be called by the first chief and shall be called by him upon receipt of a petition signed by at least thirty percent (30%) of the members of the Circle Native Community.

Section 9. A quorum of the general membership shall consist of twenty-five percent (25%) of the Circle Native Community. No business shall be conducted unless a quorum is present.

ARTICLE XIII – SEVERABILITY

If any provision of this constitution shall, in the future, be declared invalid by a court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in full force and effect.

ARTICLE XIV – AMENDMENTS

Section 1. This constitution may be amended by a majority vote of the qualified voters of the Circle Native Community voting in an election called for that purpose by the Secretary of the Interior or his authorized representative, provided that at least thirty percent (30%) of those entitled to vote shall vote in such election. No amendment shall become effective until approved by the Secretary of the Interior or his authorized representative.

Section 2. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment at

the request of the council or upon receipt of a petition signed by at least thirty percent (30%) of the qualified voters of the Circle Native Community.

ARTICLE XV – ADOPTION

This constitution when adopted by a majority vote of the qualified voters of the Circle Native Community voting at an election called for that purpose by the Secretary of the Interior or his authorized representative in which at least thirty percent (30%) of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval, and shall be effective from the date of his approval.

CERTIFICATE OF RESULTS OF ELECTION

Pursuant to a Secretarial election authorized by the Assistant Secretary – Indian Affairs on June 25, 1991, the attached Constitution of the Native Village of Circle, Alaska was submitted to the qualified voters of the tribe and on August 20, 1991, was duly (adopted) by a vote of 21 for and 1 against and 0 cast ballots found spoiled or mutilated in an election in which at least thirty (30) percent of the 39 members entitled to vote, cast their ballot in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378), the Act of May

1, 1936 (49 Stat. 1250), and the Act of November 1, 1988 (102 Stat. 2938).

/s/ Michael J. Stansampiano
Michael J. Stansampiano,
Chairman
Election Board

/s/ Louie A. John
Louie John, Member
Election Board

/s/ Angela M. Ludwick
Angela Ludwick, Member
Election Board
(Allen John,
Alternate Member)

August 20, 1991
Date